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March 22, 2013

**Via ECF**

Steven M. Gold, U.S.M.J.  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East, Courtroom 13-D  
Brooklyn, NY 11201

Re: Michael A. Cortes v. Astoria NY Holdings LLC, et al.,  
Case No. 11- Civ -3062 (SJ) (SMG)

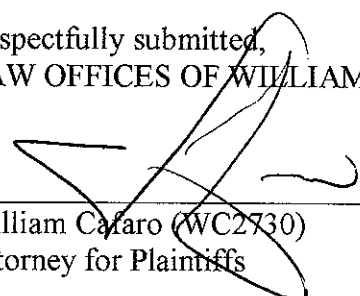
Your Honor:

The Defendants are in default in the above-referenced matter, and pursuant to your minute order of 2/13/13, I was given until March 29, 2013 to submit affidavits in support of a default judgment. There are approximately 20 people for whom affidavits have to be prepared. Although all of them had been advised by my staff to bring all relevant documents with them when they came in to my office, upon speaking to them in greater detail for the preparation of the affidavits, it became clear in most cases that there was additional documentation which they had not brought. This was not really surprising since previous defense counsel had waived compliance with all outstanding discovery demands. This has necessitated giving the opt-in Plaintiffs some time to search for the additional documents and rescheduling second office appointments. While this will entail some additional delay, I thought it best to attempt to rely documentation wherever possible as opposed to unassisted recollection. While in the absence of rebuttal by defendants, Plaintiffs' recollection and estimates of hours worked are presumed to be correct, *see, e.g., Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680, 687-88, 66 S. Ct. 1187, 1192, 90 L. Ed. 1515 (1946), and even more so on a default application, *Ting Yao Lin v. Hayashi Ya II, Inc.*, 2009 U.S. Dist. LEXIS 12963, 8-9 (S.D.N.Y. Jan. 30, 2009), I feel duty bound, as an officer of the Court, to make best efforts to garner such documentation as can be found and to be guided accordingly in the interest of basic fairness to the Defendants. This will also serve to reinforce the integrity of the judgment to be entered herein if a motion to vacate is subsequently made. I also have depositions scheduled for every day between now and the current deadline which will be going forward. For the foregoing reasons, I am requesting a 30 day enlargement of Plaintiffs' time to submit the affidavits in support of default judgment.

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Re: Michael A. Cortes v. Astoria NY Holdings LLC, et al.,  
Case No. 11-Civ-3062 (SJ) (SMG)  
March 22, 2013

Respectfully submitted,  
LAW OFFICES OF WILLIAM CAFARO

  
\_\_\_\_\_  
William Cafaro (WC2730)  
Attorney for Plaintiffs

cc:

ASTORIA NY HOLDING LLC d/b/a  
U-SAVE CAR & TRUCK RENTAL LGA  
84-15 Astoria Blvd.  
East Elmhurst, NY 11370

ASTORIA NY MOTORS LLC d/b/a  
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DANIEL BARATAU  
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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

MICHAEL A. CORTES et al.

Index No.: 11-Civ-3062 (SJ) (SMG)

Plaintiff,

-VS-

**AFFIDAVIT OF MAIL  
SERVICE**

ASTORIA NY HOLDINGS LLC, et al.,

Defendants.

STATE OF NEW YORK     )  
COUNTY OF NEW YORK    )

Odaris Palacios, being duly sworn, says:

I am not a party to the action; I reside in Queens, NY and I am over 18 years of age.

On March 22, 2013 I served the within **Letter to the Court** by depositing a true copy thereof, enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the United States Postal service within New York State, addressed to the following at the last known address set forth below:

ASTORIA NY HOLDING LLC d/b/a  
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East Elmhurst, NY 11370

Sworn to before me  
On March 22, 2013

NOTARY PUBLIC

**WILLIAM CAFARO**  
Notary Public, State of New York  
No. 31-4869936  
Qualified in New York County  
Commission Expires Jan. 22, 2014

  
Odaris Palacios